

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Serial No. 10/766154
Applicant: Kai Xu et al.
Filed: 01/28/04
Title: METHOD TO MAKE SINTER-HARDENED POWDER METAL
PARTS AND COMPLEX SHAPES
Art Unit: 1742
Examiner: McNelis, Kathleen A.
Confirmation Number: 3413
Attorney Docket No.: BW-DKT03146

HONORABLE COMMISSIONER OF PATENTS
Alexandria, VA 22313-1450

TERMINAL DISCLAIMER

The owner, BorgWarner Inc., of 100 percent interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application, which would extend beyond the expiration date of the full statutory term of co-pending US Patent Application No. 10/983,554, as such term is defined in 35 U.S.C. 154 and 173, as may be presently shortened by any terminal disclaimer. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and any patent that will issue from co-pending patent application serial no. 10/983,554 are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors, or assigns.

In making the above disclaimer, the owner does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 and 173 of the prior patent, as may be presently shortened by any terminal disclaimer, in the event that such patent: expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321, has all claims cancelled by a reexamination certificate, is reissued, or is in any manner terminated prior to the expiration of its full statutory term as presently shortened by any terminal disclaimer.

Statement under 37 CFR 3.73(b): The Owner states that it is the assignee of the entire right, title and interest in the above-identified patent application by virtue of an assignment from the inventor of the patent application. The assignment was recorded on January 28, 2004, in the United States Patent and Trademark Office, at Reel 014944 and Frame 0058. A copy of the assignment is filed herewith.

The undersigned is an attorney of record, registration number 31,369.

The terminal disclaimer fee under 37 CFR 1.20(d) is included.

The PTO suggested wording for this terminal disclaimer is unchanged.

Respectfully submitted,


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Attorney docket no.: BW-DKT03146

ASSIGNMENT AND AGREEMENT

For value received, I, Kai Xu, of Cortland in the State of New York and Ryan Sun, of Cortland in the State of New York, hereby sell, assign and transfer to BorgWarner, Inc., a Corporation of Delaware, having place of business at Powertrain Technical Center, 3800 Automation Avenue, Suite 100, Auburn Hills, MI 48326-1782, and its successors, assigns and legal representatives (hereinafter referred to as the "Assignee") the entire right, title and interest, for the United States of America, in and to certain inventions related to the "METHOD TO MAKE SINTER-HARDENED POWDER METAL PARTS WITH COMPLEX SHAPES" described in an application for Letters Patent of the United States, executed by me of even date here with, and all the rights and privileges in said application(s) and under any and all Letters Patent that may be granted in the United States for said inventions; and I also concurrently hereby sell, assign and transfer to Assignee the entire right, title and interest in and to said inventions for all countries foreign to the United States, including all rights of priority arising from the application aforesaid, and all the rights and privileges under any and all forms of protection, including Letters Patent, that may be granted in said countries foreign to the United States for said inventions.

I authorize Assignee to make application for such protection in its own name and maintain such protection in any and all countries foreign to the United States, and to invoke and claim for any application for patent or other form of protection for said inventions, without further authorization from me, any and all benefits, including the right of priority provided by any and all treaties, conventions, or agreements.

I hereby consent that a copy of this assignment shall be deemed a full legal and formal equivalent of any document which may be required in any country in proof of the right of Assignee to apply for patent or other form of protection for said inventions and to claim the aforesaid benefit of the right of priority.

I request that any and all patents for said inventions be issued to Assignee in the United States and in all countries foreign to the United States, or to such nominees as Assignee may designate.

I agree that, when requested, I shall, without charge to Assignee, but at its expense, sign all papers, and do all acts which may be necessary, desirable or convenient in connection with said applications, patents or other forms of protection.


Kai Xu1/28/04
Date:
Ryan Sun1/28/04
Date: